

the regulatory authority has determined that no additional protection measures are necessary.

(12) For a proposed remining operation where the applicant intends to reclaim in accordance with the requirements of §816.106 or §817.106 of this chapter, the site of the operation is a *previously mined area* as defined in §701.5 of this chapter.

(13) For permits to be issued under §785.25 of this chapter, the permit application must contain:

- (i) Lands eligible for remining;
- (ii) An identification of the potential environmental and safety problems related to prior mining activity which could reasonably be anticipated to occur at the site; and
- (iii) Mitigation plans to sufficiently address these potential environmental and safety problems so that reclamation as required by the applicable requirements of the regulatory program can be accomplished.

(d) *Performance bond submittal.* If the regulatory authority decides to approve the application, it shall require that the applicant file the performance bond or provide other equivalent guarantee before the permit is issued, in accordance with the provisions of subchapter J of this chapter.

(e) *Final compliance review.* After an application is approved, but before the permit is issued, the regulatory authority must reconsider its decision to approve the application, based on the compliance review required by paragraph (b)(1) of this section in light of any new information submitted under §§ 778.13(k) and 778.14(d) of this chapter.

[48 FR 44391, Sept. 28, 1983, as amended at 52 FR 4262, Feb. 10, 1987; 52 FR 17529, May 8, 1987; 53 FR 38890, Oct. 3, 1988; 54 FR 8991, Mar. 2, 1989; 59 FR 54353, Oct. 28, 1994; 60 FR 58491, Nov. 27, 1995; 62 FR 19458, Apr. 21, 1997]

#### § 773.17 Permit conditions.

Each permit issued by the regulatory authority shall be subject to the following conditions:

(a) The permittee shall conduct surface coal mining and reclamation operations only on those lands that are specifically designated as the permit area on the maps submitted with the application and authorized for the term of the permit and that are subject to the

performance bond or other equivalent guarantee in effect pursuant to subchapter J of this chapter.

(b) The permittee shall conduct all surface coal mining and reclamation operations only as described in the approved application, except to the extent that the regulatory authority otherwise directs in the permit.

(c) The permittee shall comply with the terms and conditions of the permit, all applicable performance standards of the Act, and the requirements of the regulatory program.

(d) Without advance notice, delay, or a search warrant, upon presentation of appropriate credentials, the permittee shall allow the authorized representatives of the Secretary and the State regulatory authority to—

(1) Have the right of entry provided for in §§ 842.13 and 840.12 of this chapter; and

(2) Be accompanied by private persons for the purpose of conducting an inspection in accordance with parts 840 and 842, when the inspection is in response to an alleged violation reported to the regulatory authority by the private person.

(e) The permittee shall take all possible steps to minimize any adverse impact to the environment or public health and safety resulting from noncompliance with any term or condition or the permit, including, but not limited to—

(1) Any accelerated or additional monitoring necessary to determine the nature and extent of noncompliance and the results of the noncompliance;

(2) Immediate implementation of measures necessary to comply; and

(3) Warning, as soon as possible after learning of such noncompliance, any person whose health and safety is in imminent danger due to the noncompliance.

(f) As applicable, the permittee shall comply with §701.11(d) and subchapter B or K of this chapter for compliance, modification, or abandonment of existing structures.

(g) The operator shall pay all reclamation fees required by subchapter R of this chapter for coal produced under the permit for sale, transfer or use, in the manner required by that subchapter.

(h) Within 30 days after a cessation order is issued under § 843.11 of this chapter, or the State program equivalent, for operations conducted under the permit, except where a stay of the cessation order is granted and remains in effect, the permittee must either submit to the regulatory authority the following information, current to the date the cessation order was issued, or notify the regulatory authority in writing that there has been no change since the immediately preceding submittal of such information:

(1) Any new information needed to correct or update the information previously submitted to the regulatory authority by the permittee under § 778.13(c) of this chapter; or

(2) If not previously submitted, the information required from a permit application by § 778.13(c) of this chapter.

[48 FR 44391, Sept. 28, 1983, as amended at 49 FR 27499, July 5, 1984; 54 FR 8991, Mar. 2, 1989; 62 FR 19459, Apr. 21, 1997]

#### **§ 773.19 Permit issuance and right of renewal.**

(a) *Decision.* If the application is approved, the permit shall be issued upon submittal of a performance bond in accordance with subchapter J. If the application is disapproved, specific reasons therefore shall be set forth in the notification required by paragraph (b) of this section.

(b) *Notification.* The regulatory authority shall issue written notification of the decision to the following persons and entities:

(1) The applicant, each person who files comments or objections to the permit application, and each party to an informal conference.

(2) The local governmental officials in the local political subdivision in which the land to be affected is located within 10 days after the issuance of a permit, including a description of the location of the land.

(3) If the regulatory authority is a State agency, the local OSM office.

(c) *Permit term.* Each permit shall be issued for a fixed term of 5 years or less, unless the requirements of § 778.17 of this chapter are met.

(d) *Right of renewal.* Permit application approval shall apply to those lands that are specifically designated as the

permit area on the maps submitted with the application and for which the application is complete and accurate. Any valid permit issued in accordance with paragraph (a) of this section shall carry with it the right of successive renewal, within the approved boundaries of the existing permit, upon expiration of the term of the permit, in accordance with § 774.15.

(e) *Initiation of operations.* (1) A permit shall terminate if the permittee has not begun the surface coal mining and reclamation operation covered by the permit within 3 years of the issuance of the permit.

(2) The regulatory authority may grant a reasonable extension of time for commencement of these operations, upon receipt of a written statement showing that such an extension of time is necessary, if—

(i) Litigation precludes the commencement or threatens substantial economic loss to the permittee; or

(ii) There are conditions beyond the control and without the fault or negligence of the permittee.

(3) With respect to coal to be mined for use in a synthetic fuel facility or specified major electric generating facility, the permittee shall be deemed to have commenced surface mining operations at the time that the construction of the synthetic fuel or generating facility is initiated.

(4) Extensions of time granted by the regulatory authority under this paragraph shall be specifically set forth in the permit, and notice of the extension shall be made public by the regulatory authority.

#### **§ 773.20 Improvidently issued permits: General procedures.**

(a) *Permit review.* A regulatory authority which has reason to believe that it improvidently issued a surface coal mining and reclamation permit must review the circumstances under which the permit was issued, using the criteria in paragraph (b) of this section. When the regulatory authority finds that the permit was improvidently issued, it must comply with paragraph (c) of this section.

(b) *Review criteria.* (1) A regulatory authority must find that a surface coal